

**REMARKS**

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

**Status of Claims:**

No claims are currently being added or cancelled.

Claims 3, 17, 18 and 20 are currently being amended.

This amendment amends claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claims remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-26 are pending in this application.

**Indication of Allowable Subject Matter:**

Applicants appreciate the fact that claims 1 and 2 are indicated in the Office Action as being allowed.

**Advisory Action Comments:**

This amendment and reply makes changes to claims 1 and 18 as compared to the unentered reply filed on November 21, 2005, in order to correct the errors mentioned in the Continuation Sheet of the Advisory Action concerning those claims. Also, all of the newly added claims to the Reissue application are included in this amendment and reply.

**Discussion of Amendments Made to the Claims that were added by way of this Reissue Application:**

Independent claim 3 has been amended to include the following features at the end of that claim:

and a front surface of an upper portion of the main device casing faces a back surface of the pivotable device casing at a predetermined angle when the pivotable device casing is pivoted away from the main device casing.

Independent claims 17, 18 and 20 have been amended in a substantially similar manner to the amendments made to claim 3. In accordance with 37 C.F.R. 1.173(c), these claims are presented as completely underlined in the **Amendment to the Claims** section of

this Amendment and Reply, since claims 3-26 were previously added in this Reissue Application.

Support for the features added to claims 3, 17, 18 and 20 may be found in Figure 42B of the drawings, and in column 19, lines 39-65 of the 5,936,583 patent (the patent for which this reissue is being filed on).

**Comments Re: Information Disclosure Statement filed on April 6, 2005:**

In the IDS filed on April 6, 2006, Applicants' representative inadvertently stated that "each item of information contained in this information disclosure statement" was cited not more than three months from the filing date of that IDS, when in fact only references A1 and A2 listed on the Form PTO SB/08 met that requirement. The other references listed on the Form PTO SB/08, A3-A5, were known to Applicants more than three months prior to the filing of the IDS. However, this should not change the fact that a fee is not required for consideration of each reference included in that IDS (since it was filed prior to a first Office Action on the merits). Applicants' representative regrets any inconveniences caused by this inadvertent mistake.

**Claim Rejections – Prior Art:**

In the Office Action, claims 3-16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,018,998 to Wegner in view of U.S. Patent No. 5,335,368 to Tamura and U.S. Patent No. D298244 to Watanabe; and claims 17-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Watanabe. These rejections are traversed with respect to the presently pending claims under rejection, for at least the reasons given below.

As further clarified in the amendments to the presently pending independent claims 3, 17, 18 and 20, the radio communication device of the present invention is configured such that a front surface of an upper portion of the main device casing (second casing, second device casing) faces a back surface of the pivotable device casing (first casing, first device casing) at a predetermined angle when the pivotable device casing (first casing, first device casing) is pivoted away from the main device casing (in the open state, in the operation configuration, in the pivoted operational position). As a result, the upper portion of the main device casing (second casing, second device casing) will be projecting outward away from the user's head when the pivotable device casing (first casing, first device casing) is pivoted away from the main device casing (in the open state, in the operation configuration, in the pivoted

operational position), such that the antenna on the main device casing (second casing, second device casing) will be placed farther away from the user's head and a direction of the maximum directivity of the antenna will be displaced from the user's head.

In this regard, the combination of Wegner, Tamura and Watanabe fails to disclose any teaching for such a specific configuration of a radio communication device such that a front surface of an upper portion of the main device casing (second casing, second device casing) faces a back surface of the pivotable device casing (first casing, first device casing) at a predetermined angle when the pivotable device casing (first casing, first device casing) is pivoted away from the main device casing (in the open state, in the operation configuration, in the pivoted operational position).

In particular, Watanabe's portable handset radio telephone does not teach or suggest the above-mentioned features recited in claims 3, 17, 18 and 20, whereby a front (and not a back) surface (speaking surface) of Watanabe's pivotable device casing faces a front surface of an upper portion of the main device casing at a predetermined angle when the pivotable device casing is pivoted away from the main device casing.

It should be noted that the claimed invention is specifically designed so as to reduce the influence of the user on the antenna characteristic while the user operates the device, by specifically arranging the antenna such that the head of the user is distanced from the antenna and the radiation field of the antenna points away from the head of the user (see page 37, lines 3-14 of the present specification).

In this regard, Wegner, Tamura and Watanabe are each not at all concerned with such a reduction of the influence of the user on the antenna characteristic, and so there is no sound motivation for combining partial features separately extracted from Wegner, Tamura and Watanabe, which do not mention the desire to reduce of the influence of the user on the antenna characteristic.

As discussed above, it is believed that claims 3-26, as amended, are patentably distinct over the prior art of record.

**Conclusion:**

Accordingly, since all of the issues raised in the Office Action have been addressed in this Amendment and Reply, Applicants believe that the present application is now in condition for allowance, and an early indication of allowance is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorize payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date December 20, 2005

By Phillip J. Articola

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 945-6162  
Facsimile: (202) 672-5399

Pavan K. Agarwal  
Attorney for Applicants  
Registration No. 40,888

Phillip J. Articola  
Attorney for Applicants  
Registration No. 38,819